

**UNITED STATES DISTRICT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

VS.

MARQ VINCENT PEREZ

Case No.: 4:17-cr-00165

**DEFENDANT'S OBJECTION TO TRANSFER TO HOUSTON DIVISION OR MOTION
TO TRANSFER TO CORPUS CHRISTI DIVISION OR VICTORIA DIVISION**

1. The Defendant, Marq Vincent Perez, objects to the transfer of the proceeding under Federal Rule of Criminal Procedure 18 to the Federal District Court in Houston, Texas and/or moves to transfer the case to Corpus Christi, Texas or Victoria, Texas.

2. The Defendant is set for an initial appearance on March 30, 2017 in Houston, Texas.

3. Federal Rule of Criminal Proceeding 18 is entitled the "Place of Prosecution and Trial." The Court must set the place of the trial within the District with due regard for the convenience of the Defendant and the prompt administration of Justice. Fed. R. Pro. 18.

4. The prosecution of the Defendant has already begun in the Corpus Christi Division: 1) A complaint was filed on 3/4/17; 2) The Defendant appeared in an initial appearance before Judge B. Janice Ellington on 3/6/17; 3) A lengthy preliminary examination and detention hearing was held on 3/9/17; With the AUSA opposing bond, introducing 10 exhibits and, with 3 Assistant United States Attorney's present; 4) A memorandum and opinion and order of detention was issued by Judge Ellington of the Corpus Christi Division on 3/9/17.

5. Judge Ellington has therefore already heard relevant and pertinent matters

regarding the case and the detention of the defendant. The Defendant intends to move for a bond on a later date and the Magistrate Judge Ellington could take judicial notice of what occurred on 3/9/17, without there being a repetition of the hearing.

6. The Defendant resides in Victoria. The Defendant was born and raised in Victoria. The Defendant mother and father reside in Victoria. The alleged crime occurred in Victoria, Texas. The witnesses reside in Victoria, Texas. See pretrial report.

7. The Defendant retained Mark A. Di Carlo, who lives and practices and maintains his law office in Corpus Christi, Texas while the case was being prosecuted in Corpus Christi, Texas. The Defendant is incarcerated in Cuero, Texas. The initial appearance is set for March 30, 2017 in Houston, Texas at 515 Rusk, Houston Texas.

8. The distance from Corpus Christi Texas to Houston, and the distance from Victoria, Texas to Houston, Texas is much further than the distance from Victoria to Corpus Christi for the families, and Defense counsel and witnesses:

9. The trip from 722 Elizabeth St., Corpus Christi to the Federal District Court at 515 Rusk Houston, Texas is 3 hrs and 28 minutes, 210.5 miles.

10. The trip from 722 Elizabeth St., Corpus Christi to the Federal District Court in Victoria, Texas at 312 S. Main St, #406, is 1 hour and 29 minutes, or 85.7 miles.

11. The distance from the jail in Cuero, Texas to the Federal District Court at 515 Rusk, Houston, Texas is 146 miles, that is 2 hours 35 minutes.

12. The distance from the jail in Cuero, Texas, 2018 E. Live Oak, St., Cuero Texas to the Federal District Court at 312 S. Main is, Victoria Texas is 33 minutes, 28.3 miles.

13. The distance from the jail in Cuero to the Corpus Christi Federal courthouse is 100 miles, that is 1 hour and 39 minutes.

14. The Distance from the parents address in Victoria Texas to 515 Rusk, Houston Texas is 126 miles, 2 hours and 21 minutes.

15. The Distance from the parents address in Victoria Texas to 312 South Main St. Victoria Texas is 3.2 miles, 8 minutes.

16. The undersigned counsel did not quote fees and did not anticipate the travel time to Houston, Texas.

17. A District Court is authorized to transfer a case to another division if the court is satisfied that it is in the interest of justice to do so. Fed. R. Civ. Pro. 21, Advisory Com. Notes 1944 Adoption, 2.

18. The defense asserts that hearing this proceeding in Houston, Texas is without basis, and is inconvenient to the defendant, the defense counsel, and the witnesses. The Defendant asserts that the United States is forum shopping for the most favorable jury and is acting in an oppressive manner and is acting in violation of the procedural due rights of the Defendant.

Respectfully submitted,

By: /s/ Mark Di Carlo
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CERTIFICATE OF SERVICE AND CONSULTATION

This is to certify that a true and correct copy of the above-entitled and numbered motion has been served and filed electronically, on this 27th day of March 2017 to the following:

The defense counsel discussed the inconvenience of the Houston, Texas location and related issues with A.U.S.A. Sharad S. Khandelwal on March 24, 2017 and Mr. Khandelwal stated the location transfer may be possible at a later date.

Assistant U.S. Attorney
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Respectfully submitted,

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ORDER

The court having considered the Motion for Defendant **GRANTS/ DENIES** the motion. The proceedings will be held in Victoria, Texas / Corpus Christi, Texas.

Signed on this _____ day of _____, 2017.

Judge Presiding